

*Memorandum*

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

Paul Simon Music,

Plaintiff,

-against-

Rhythm USA, Inc., et al,

Defendants.

08 Civ. 6440 (CM) (AJP)

CIVIL CASE MANAGEMENT PLAN

1. This case is to be tried to a jury on all issues so triable.
2. Discovery pursuant to Fed. R. Civ. P. 26(a)(1) shall be exchanged by November 21, 2008.
3. No additional parties may be joined after December 1, 2008.
4. No pleading may be amended after December 8, 2008.
5. All discovery, *including expert discovery*, must be completed on or before April 17, 2009. PLEASE NOTE: the phrase "all discovery, including expert discovery" means that the parties must select and disclose their experts' identities and opinions, as required by Fed. R. Civ. P. 26(a)(2)(B), *well before* the expiration of the discovery period. Expert disclosures conforming with Rule 26 must be made no later than the following dates:
  - a. The party bearing the burden of proof on an issue shall disclose the identity of all persons who may be used at trial to present evidence under Federal Rules of Evidence (FRE) 701, 702, 703, 704, and 705 no later than February 27, 2009 for all such issues.
  - b. The party not bearing the burden of proof on an issue shall disclose the identity of all persons who may be used at trial to present evidence under FRE 701, 702, 703, 704, or 705 no later than March 27, 2009 for all such issues.

No deposition of any expert witness shall occur before the disclosures concerning expert witnesses mandated by this Order have been made.

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6. Judge McMahon's Rules governing electronic discovery apply automatically to this case. The parties must comply with those rules unless they supercede it with a consent order. The text of the order will be found at [www.nvsc.uscourts.gov](http://www.nvsc.uscourts.gov).

7. Discovery by interrogatory shall be limited to 25 interrogatories per party, including all discrete subparts, with the right to revisit this number later during discovery, if necessary. Interrogatories shall otherwise be governed by the national uniform requirements set forth in FRCP 33.

8. Depositions shall be limited to 10 per party, with the right to revisit this number later during discovery, if necessary. Depositions shall otherwise be limited by the national uniform requirements set forth in Rules 30, 31, and 32 of the FRCP.

9. Each party shall be limited to 3 sets of Requests for Production.

10. Each party shall be limited to 25 Requests for Admission. Requests for Admission shall otherwise be governed by FRCP 36.

 11. This case has been designated to the Hon. United States Magistrate Peck for resolution of discovery disputes. Do not contact Judge McMahon about discovery disputes; go directly to your assigned Magistrate Judge. Discovery disputes do not result in any extension of the discovery deadline or trial-ready date, and Judge McMahon must approve any extension of the discovery deadline in non-pro se cases. *The Magistrate Judge cannot change discovery deadlines unless you agree to transfer the case to the Magistrate Judge for all purposes.* Judge McMahon does not routinely grant extensions so counsel are warned that if they wait until the last minute to bring discovery disputes to the attention of the Magistrate Judge, they may find themselves precluded from taking discovery because they have run out of time,

12. A joint pre-trial order in the form prescribed in Judge McMahon's individual rules, together with all other pre-trial submissions required by those rules (including *in limine* motions), shall be submitted on or before June 12, 2009. Following submission of the joint pre-trial order, counsel will be notified of the date of the final pre-trial conference. *In limine* motions must be filed within five days of receiving notice of the final pre-trial conference; responses to *in limine* motions are due five days after the motions are made. Cases may be called for trial at any time following the final pre-trial conference.

13. All motions for summary judgment shall be filed no later than May 15, 2009. No motion for summary judgment may be served after the date the pre-trial order is due. *The filing of a motion for summary judgment does not relieve the parties of the obligation to file the pre-trial order and other pre-trial submissions on the assigned date.*

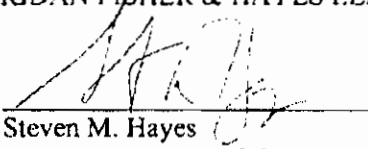
14. The parties may at any time consent to have this case tried before the assigned Magistrate Judge pursuant to 28 U.S.C. Section 636(c).

15. This scheduling order may be altered or amended only on a showing of good cause that is not foreseeable at the time this order is entered. *Counsel should not assume that extensions will be granted as a matter of routine.*

Dated: New York, New York  
October 15, 2008

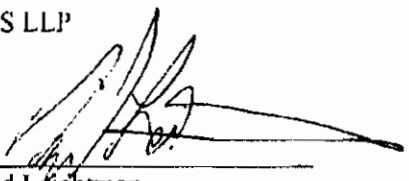
Upon consent of the parties:

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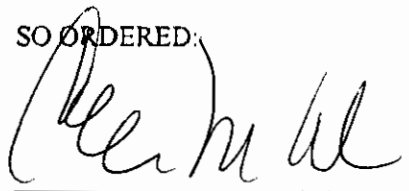
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Attorneys for Defendants

SO ORDERED:



Hon. Colleen McMahon  
United States District Judge

10-16-08